SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

Coordination Proceeding Special Title (Rule 1550(b))	
In re TOBACCO CASES II	Case No. JCCP No. 4042
This document relates to: The People of the State of California, et al, v. Philip Morris Incorporated, et al., Los Angeles Superior Court Case No. BC 194217;	DEPOSITION OF JOHN G. ROEHM, JR.
The People of the State of California, et al., v. General Cigar Co., et al, San Francisco Superior Court Case No. 996780;	
The People of the State of California, et al, v. Brown & Williamson, et al., San Francisco Superior Court Case No. 996781; and	
People of the State of California v. Tobacco Exporters, et al., San Francisco Superior Court, Case No. 301631	
SERVICE LIST "B"	

TAKEN ON: Monday, June 12, 2000
TAKEN AT: 401 B Street, Suite 1700
San Diego, California
REPORTED BY: CYNTHIA DEPWEG
CSR NO. 3280
RPR NO. 036984

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Also present: Lindsay Havern

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C E R T I F I C A T E

I, the undersigned, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following changes listed below):

Page	Line	Explanation

JOHN G. ROEHM, JR.

San Diego, CA, Monday, June 12, 2000, 2:20 p.m.

JOHN G. ROEHM, JR.,

HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

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EXAMINATION

BY MS. FROSTROM:

Q. What is your full name?

A. John George Roehm, Jr.

Q. Your address? Business address is fine.

A. 15100 North 90th Street.

Q. Do you have a phone number there?

A. (480) 860 -- I'm sorry. (480) 767-4508.

Q. What is the name of your employer?

A. Albertson's.

Q. Albertson's. Is it Albertson's --

A. Incorporated.

Q. -- Sav-On --

Is it just Albertson's, Incorporated?

MR. BOGGS: I'm going to slow you down. You're going real fast. It's going to help the reporter, and it's also going to help the lawyer asking you questions, to hesitate. It may even help me, because I may object from time to time.

BY MS. FROSTROM:

Q. Which brings me to my next question. Have you ever been deposed before?

A. No.

Q. I assume that your lawyer has acquainted you with some of the general deposition procedures, but I will go over a few of the more common ones that people may not be familiar with.

You need to wait until I finish asking the question before you start your answer. The court reporter can only take down one set of words at a time. And also, as your attorney just said, he may want a chance to object.

You need to speak in -- You need to use words as opposed to body language. Nods of the head, shakes of the head, shrugs also cannot be taken down as testimony.

If you don't understand one of the questions that I ask, I won't be asking you to speculate. Ask me to rephrase if it would make you speculate. However, sometimes you may need to estimate. An estimate is something that would be based more on your knowledge as opposed to speculation which is just "I have no idea." If you don't understand, let me know.

I won't be asking for privileged information, communications between you and your attorney. If you have an answer that goes to privileged information and that's the only answer you have, that's not what I am asking. If you need clarification on that, your attorney can provide that. You can ask to speak to your attorney at any time during the deposition. Do you understand? Yes?

MR. BOGGS: Go ahead. I was just going to say something when you're finished.

BY MS. FROSTROM:

Q. Do you understand those basic procedures?

MR. BOGGS: I'm going to object that that question would ask him to think about all of the many, many compound things that you just put in there, and I don't think it's a proper subject for the deposition. Therefore, I think I will instruct him not to answer it.

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I don't think he has to answer that kind of a question.
BY MS. FROSTROM:
Q. What did you do to prepare for your deposition today?
A. A little more clearly? What do you mean by that?
Q. What documents did you review in preparation for your --
A. I didn't review any.
Q. -- deposition today?
Please wait until I finish my question before you give the answer.
You didn't review any documents before the deposition today?
A. I did not.
Q. Did you review the company's web site for the company before today?
A. I did not.
Q. Did you speak to anyone other than your

attorney in preparation --
A. My secretary, my wife.
Q. What was the substance of the conversation with your secretary?
A. To let them know that I would be out of the office today; and for my wife, to let her know that I was traveling to San Diego.
Q. Did you talk about what your deposition was about?
A. No.
Q. Your secretary and your wife. Did you talk to anyone else?
A. Not that I am aware of.
Q. I'm going mark this as Exhibit 4094.
(Plaintiffs' Exhibit No. 4094 was marked.)
BY MS. FROSTROM:
Q. Do you recognize this document?
A. I don't know if it's exactly the same thing, but I saw this this morning.
MR. BOGGS: You don't have to say when. She asked you if you have seen that.
THE WITNESS: Okay. I don't know if it's exactly the same one or not. I would have to refer to my attorney to see if that's the exact same one.
MR. BOGGS: Your attorney won't answer the question. You have done your best to answer her question.
THE WITNESS: Okay.

BY MS. FROSTROM:
Q. That document is entitled Notice of Deposition of Defendant Albertson's, Incorporated, correct?
A. Notice of Deposition of Defendant Albertson's, Incorporated.
Q. Could you please review Item No. 11 under requested testimony.
A. Okay.
Q. Item No. 11 reads, "The content, format, design, purpose, and/or frequency of use of any and all Internet web sites maintained by or on behalf of Albertson's and/or any other parent corporation, affiliates or division, if any." Is that the scope of

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your testimony today to the best of your knowledge?
A. To the best of my knowledge, I can speak to those areas that I am involved with, and those would be relative to the Sav-On Drug and the OscoDrug and the American drugstore web sites.
Q. Are you familiar with the Albertson's web site?
A. I don't have an active role in managing or being involved with it directly, no.
Q. What do you know about the Albertson's web site?
A. Only what I have seen as a consumer.
Q. And your knowledge of the Sav-On web site, are you familiar with all of those elements as to the

Sav-On web site?
A. I'm familiar with, to a certain degree, the content, the format, the design, and the purpose of the Sav-On Drugs, the OscoDrug, and the American Drug Store web sites, to which I have been involved.
Q. What about frequency?
A. I am aware of certain aspects of frequency that I have reports available to me.
Q. What reports are those?
A. The report that I have is -- and I do not know the exact name of it -- but it's a program that tells me the number of hits to the Sav-ondrugs.com site, some statistics about that site, and more top line level.
Q. You say the program indicates hits? Does it indicate hits just to the web site in general, or does it track the traffic through all of the various parts of the web site?
A. I'm not aware that it tracks it through all the web site. It may consolidate it. I can only see the top 10 areas of which hits go through.
Q. Did you bring any of those reports with you today?
A. I did not.
Q. Do you know the title or the name of those reports? What do you call them?
A. I do not know the name. I just got exposed -- we just essentially stumbled upon them last

week.
Q. What would you refer to them as?
A. I don't have a referral name. I really don't know what the name of it is called. It's just a web-based canned report, but I don't know the name of it.
Q. Is it a report generated inhouse at Sav-On Drugs?
A. I believe it's a report that is generated by a third party.
Q. Do you know the name of that third-party?
A. And that would be the same name of the report. But I apologize. I don't know the name of it. I want -- I'm not confident the answer is Web Trends. It potentially could be called Web Trends.
Q. Who would know the name of the third party?
A. I could get that when I return. I just don't know it off the top of my head.

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Q. And who would have the knowledge of the Albertson's web site?
A. When you say the knowledge of the web site, what specifically? What part of the web site?
Q. The content, format, design, purpose, frequency.
A. A gentleman by the name of Matt Mutta, M-u-t-t-a.
Q. And who is he employed by?

A. Albertson's.
Q. I'm going to mark this as Exhibit 4095, a document entitled Notice of Deposition of Defendant Sav-On Drug stores.
(Plaintiffs' Exhibit No. 4095 was marked.)
BY MS. FROSTROM:
Q. Again, Category No. 11 should describe the testimony that you will be giving. Does that look accurate?
MR. BOGGS: Just a second.
MS. FROSTROM: They should be identical.
MR. BOGGS: You have given him the Notice for the Defendant Sav-On Drug Stores. I see what you have done. I object to your question as ambiguous since you're asking him to buy into a description that you or somebody has written at your office that's compound. I think he's earlier described what he can cover of those elements.
BY MS. FROSTROM:
Q. I will rephrase.
Are you prepared to testify to No. 11 on behalf of Sav-On today?
A. I am --
MR. BOGGS: Let me just, again, object that it's been asked and answered, but you may proceed.
THE WITNESS: What I am prepared to discuss or be able to speak to you is Albertson's drug region web sites, utilizing the name of sav-ondrugs.com and

Americandrugstores.com, and oscodrug.com.
MR. BOGGS: Would you read that back for not only my benefit but everybody's benefit here, because I'm going to encourage counsel to really focus on that answer, because I think it's going to assist you in figuring out where to go with this gentleman. If you would read that back, please.
(The last answer was read back.)
MR. BOGGS: Off the record.
(A discussion was held off the record.)
BY MS. FROSTROM:
Q. What is your job title?
A. Director of Electronic Marketing for Albertson's drug region.
Q. Do you work within a division?
A. I work within the Albertson's drug region.
Q. What is your direct supervisor's name?
A. Mark Panzer, P-a-n-z-e-r.
Q. What is his title?
A. Senior vice-president. I believe it's -- I believe it's Senior Vice-president of Marketing, Albertson's drug region.
Q. Do you supervise any employees?
A. I do.

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Q. How many? Approximately. You can estimate here.
A. Approximately five.
Q. And what are their titles?

A. They're managers of -- managers of electronic marketing, and e-commerce is one. And then three Internet solution managers, and I'm one of the administrative assistants.
Q. As the Director of Electronic Marketing, what are your duties?
A. My responsibilities include the marketing of the e-commerce web site, the product selection, pricing, promotion, general marketing for Albertson's drug region.
Q. When you say the marketing of the e-commerce web site -- is that what you said?
A. That's correct.
Q. -- what does that mean?
A. It means various methodologies, and there's nothing specific to advertise, promote, to draw, or attract consumers to the web site.
Q. To the web site itself?
A. The web site, to make purchases, yes.
Q. And the pricing and the promotion, what are you pricing and promoting?
A. The products of which we carry on the web site.
Q. Do the products that you carry on the web site differ from the products that are carried in the store?
A. They may. They generally follow the same order of which we carry in our stores, within certain

categories.
Q. And the pricing may be different on the web site than it is in the stores?
A. It is. It may be. It depends upon the market.
Q. And I'm sorry. What was the third responsibility you listed?
A. Could we repeat that back so --
(The answer on Page 15, Line 7 was read back.)
BY MS. FROSTROM:
Q. The general marketing, what does that involve?
A. There's not any defined answer to that. What I mean is the day to day, the tasks may vary, depending upon who's contacting you relative to promoting in a different search engine or looking at different ways that are available to market the site on the web. It also includes our ability to be able to try to learn how to market ourselves on the web. But I don't know that there's any clear thing saying that. You're smiling --
Q. How do you market yourself on the web?
A. We're just beginning to market the e-commerce site; and in doing so, we're actually starting to market ourselves through our stores and through our print, our advertising print media.
Q. How do you advertise through the stores?
A. At this point in time, we have implemented

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on our receipt tapes the referral to sav-ondrugs.com or sav-on.com, and we have started to put messages on our pharmacy receipts, just as of last week. In our ads for years, we have had the URL of our site, depending upon the region, either OscoDrug or Sav-On Drugs on our site.

Q. I'm sorry. When you say "ads," you mean television, printouts?

A. In our print ads.

Q. Print ads. Do you do anything on the Internet to market your site? You mentioned search engines.

A. We have, for the last -- up through the end of March, we have been in a test phase, only in Kansas City and Los Angeles, but we have not been actively marketing the site since the middle of March. A little bit thereafter, we have opened up the capability to be able to market the e-commerce site nationally. We have not yet aggressively marketed the site. We're waiting for the pharmacy piece to be completed.

Q. Is the pharmacy piece completed now?

A. It is not. Today, we accept refills on prescriptions, but the ability to be able to fill or send new prescriptions is not yet available.

Q. The rest of the site is completed? I didn't see any "Under Construction" signs.

A. No. The site is -- the site is in evolution, and it will continue to change and evolve.

But it's gone through several evolutions.

Q. When was the site first designed, first available, in the Internet?

A. I believe at the end of October of 1999 for the e-commerce site. Is that what we are speaking of?

Q. I'm talking about the site that can be found by typing in www.sav-ondrugs.com.

A. When you type in www.sav-ondrugs.com, you come to a splash page and which will give the consumer, the patient, the option to go to either a corporate site or to an e-commerce site.

That's where you go when you type in -- I believe if you type in sav-ondrugs.com. They're in a corporate site, that when you click on that button, I believe it takes you to the URL Americandrugstores.com, which is the corporate site, which also has information. It has information on our store locator. It has information on vitamins and herbs. It has information on recruiting and so forth. That site has been around for several years.

The new site, the e-commerce site, the shopping site, sav-ondrugs.com, has been online and test marketing beginning in October of 1999.

Q. I have marked Exhibit 4096.

(Plaintiffs' Exhibit No. 4096 was marked.)

BY MS. FROSTROM:

Q. Is that the splash page that you were

referring to? If I just typed in www.sav-ondrugs.com, is that the page that would pop up?

A. That appears to be the page that would pop up today, yes.

Q. Were you involved in designing that page?

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A. I was not involved in designing that page.
Q. Do you know when that page first went online?
A. That page went online when the e-commerce site went online, approximately the same general time frame, in October, and that was to allow us to be able to give the consumer the option to go to either place.
Q. Do you have more familiarity with one or the other of those sites, the corporate or the shop online site? Or are you equally familiar with both?
A. I believe I can speak to some degree on both of those, and I will share with you the background. The corporate site has been in evolution for several years, and I have not been involved with the actual creation of the site, but have been -- but understand somewhat of that site. The e-commerce site, I have been involved with since the beginning, as far as the marketing side associated with it.
Q. I am marking Exhibit 4097. The URL is www.Americandrugstores.com/scripts/health/index.cgi. The title appears to be Health & Wellness Online News.
(Plaintiffs' Exhibit No. 4097 was marked.)
//

BY MS. FROSTROM:
Q. Are you familiar with that section of the web site?
A. I am.
Q. Is that in the shop online or in the corporate section?
A. That would be in the corporate section. It would be underneath the -- as I mentioned earlier, Americandrugstores.com site.
Q. And you can get there by clicking on something within the Sav-On site, correct?
A. Well, when you click on the sav-ondrugs.com, you are then given the option at the splash page, which was this earlier exhibit, 4096, to go to either the shop online or the corporate site by clicking on the corporate site. You then come into the section that allows you then not to go directly to this, but it brings you to this page if you click on Health & Wellness.
Q. Were you involved in the creation of this section of the web site?
A. I was not. It was done prior to me becoming responsible for the web sites.
Q. Was this section of the web site created by Albertson's/Sav-On, or was it contracted out to a third party?
MR. BOGGS: Object. Lacks foundation so far. You may answer.

THE WITNESS: I will answer in that this web site was created prior to the merger of Albertson's and American Stores. It was a web site -- it is a web site and was a web site that was created by a third party for American Drug Stores as part of the American Stores organization.
BY MS. FROSTROM:
Q. And was it only after that merger that Albertson's has had a part of the American drug web site? What's the significance of the -- after the

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merger qualification?
A. I'm sorry. One more time?
Q. The essential question is, what was the significance of it being created prior to the merger qualification you gave me?
A. I was just trying to be thorough with you, just trying to tell you how it evolved.
Q. But Albertson's did have this site up prior to the merger. This wasn't something that they gained during the merger?
A. Albertson's, through the American Stores entity, the answer is yes.
Q. Okay. What is the name of the third party that created this site?
A. The company --
MR. BOGGS: Go ahead. I object on the ground of foundation. You may answer.
THE WITNESS: Intelli.com.

BY MS. FROSTROM:
Q. Could you spell that, please.
A. Sure. To the best of my ability, i-n-t-e-l-l-i.com.
Q. Do you still work with intelli.com in maintaining the web site?
A. We do.
Q. Do you have actual contact with them yourself in your position?
A. Not on a day-to-day basis, but the answer is yes, technically.
Q. What services do they perform?
A. They, today, maintain the site, the updates of the information, our store locater, and several segments to keep it refreshed.
Q. When you say, "maintain the site," is that on a technical basis only?
A. Yes.
Q. What do they do to maintain the site?
A. The segments which change or become irrelevant or that change on day to day -- I shouldn't say day to day, but as we add stores or delete stores, or as we serve up -- as we change names of our organization or store locations, they maintain that for us.
Q. Who would actually write the text that appears on the screen on Exhibit 4097?
MR. BOGGS: Could you add some clarification as

to the point in time -- or period of time you're talking about to see whether he is going to be the person who knows about the period you're asking? I'm sure it may change over time, but maybe not.
BY MS. FROSTROM:
Q. Today. If you were putting this page on, who would write that text?
A. Today, we -- today, we have not made any changes. We're not making any changes to this site. And we will -- our intention is to incorporate it into a new web site underneath the Albertson's family of web sites. So said another way, the design of this site is going to be redesigned to fit a look, a feel, that is within the Albertson's family of web sites.
Q. Is that redesign process underway now?

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A. It has not yet begun for this site.
Q. For the entire Americandrugstores.com site?
A. It has not started yet for Americandrugstores.com.
Q. What about for sav-ondrugs.com?
A. Americandrugstores.com, sav-ondrugs.com, and oscodrug.com corporate pages that are one and the same. If you go on to this sheet -- and it doesn't reflect it here, but -- or may -- the banner rotates between OscoDrug and Sav-On Drugs. And so that said, that -- I'm just trying to be able to explain that's how it works. So the question, again, so I can be more

clear? Or did I answer your question?
Q. I think you might have answered the question. The question was, was it being redesigned for all of -- for the American Drug and for Sav-On Drugs?
A. When it's -- when it's redesigned, it will be for -- it will be for -- it won't -- the American Drug Stores name probably won't exist any longer. It will only be for Sav-On Drugs or OscoDrug. I shouldn't say "only." I apologize. It will be for those two sites. It may include others as well. American Drug Stores was the, I believe, the legal name of what American Stores is called. The Sav-On Drugs and OscoDrug organization, prior to the merger with Albertson's.
Q. Now, stepping into the past, do you know who actually wrote the text that is on that page right now?
A. I do not, and the people that were involved have left the organization, I believe.
Q. Do you know the time period that that would have been done?
A. It is my -- it is a guess -- okay? -- and only that right now, because I'm not sure how many years back it goes. But I believe it goes back at least several years onto the web site, and I can't speak to the number of modifications that have took place. But for the -- with the exception of the Upons and the refill online, the net refill, I believe that the --

one, two, three -- the eight primary segments called online vitamins, online minerals guide, online herbs guide, online supplements guide, online health guide, diabetic information, feedback health links have been there for at least several years. It's my --
MR. BOGGS: It's your guess.
THE WITNESS: It's a guess.
MR. BOGGS: It's what's called a guess.
BY MS. FROSTROM:
Q. But it's your best guess?
A. The Upons were added. We added the Upons last year. And the refill online came on last year, those segments onto the site.
Q. Do you know how Albertson's, Incorporated decides whether someone within the company or whether someone at intelli.com will actually write the text?
MR. BOGGS: Hold it. Let me object and ask you to clarify, so it's not ambiguous, whether you're asking about text such as this or some amorphus text for the web site, because I think it will make a difference as

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you go forward.
MS. FROSTROM: I think it will. I'm asking for a general, "Do they have a policy for deciding which text can be written by third parties and which text has to be inhouse?"
MR. BOGGS: I will reserve an objection that it's ambiguous. You may try to answer it.
THE WITNESS: To this web site, the

Americandrugstores.com and the site, the text was written prior to Albertson's acquiring American Stores. And so to that point, I don't believe that they -- there was no input from Albertson's at the time for the design of that text.
BY MS. FROSTROM:
Q. Do you have a policy that's in effect now, when you're making changes to the web site, which texts can be authored by a third party and which texts has to be authored inhouse?
MR. BOGGS: Same objection. It's ambiguous and overly broad. You may answer.
THE WITNESS: I can answer if you can tell me specifically which texts you're referring to.
BY MS. FROSTROM:
Q. I think it was a "yes" or "no" question, whether you have a policy of determining who's going to author which text.
MR. BOGGS: Hold it. Wait for her next question.
BY MS. FROSTROM:
Q. Do you have a policy to that effect, or does it just go on a case-by-case basis?
MR. BOGGS: Same objections. You may answer.
THE WITNESS: Could you repeat that one more time. I'm sorry?
BY MS. FROSTROM:
Q. Sure.
A. Just so I understand how to answer it.

Q. That's fine.
Do you have a policy inhouse? You're talking about you're redesigning sites right now, and you have made changes to the page in the past.
When you make those changes, when you redesign the sites, do you have some kind of a policy that lets you decide what text, say, you as an Albertson's employee, what text you would have to write and what would be okay for just intelli.com to do on their own?
MR. BOGGS: Same objections. Plus it's compound. You may answer.
THE WITNESS: Okay. I'm not aware of any specific policy.
MR. BOGGS: Stop. That's what she said.
THE WITNESS: Okay.
BY MS. FROSTROM:
Q. So on a case-by-case basis, with this page, when you're redesigning this page, will intelli.com be able to author the changes to that page, or will that be something that you have to keep control over?
MR. EATON: Compound.
THE WITNESS: On this page, we will probably -- as we move forward, intelli.com will most likely be

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phased out, and the Albertson's ISNT team, technology team, will build the site, using the same design, I suspect -- I'm guessing right now -- that they have

today so that there's consistency across each of the Albertson's name plates.

BY MS. FROSTROM:

Q. Is the ISNT team inhouse?

A. It is.

Q. Are those people that are currently employed by Albertson's?

A. They are.

Q. Is that the team that you are on?

A. It is not.

Q. What's the relationship between that team and your department?

A. We work day to day with each other. They represent the technical team. They represent the experts within the web environment, and they manage -- or they build, if you will, all the new Albertson's platform web sites, existing and new web sites.

Q. So the ISNT team is doing the building and the creation right now?

A. For the sav-ondrugs.com e-commerce site.

Q. What about for the corporate site?

A. Today, they have not yet assumed that responsibility. They -- today, intelli.com still manages aspects of that that require to be updated for us, but in the near future, this will transition over to the Albertson's team.

Q. Do you know what date that transition is to occur?

A. Boy, if I could predict that -- I do not know yet.

Q. Do you have an estimate? Within the next year?

A. I would believe it would be within the next year.

Q. Marking Exhibit 4098, do you recognize that as the online vitamins guide under the Health & Wellness section of the web site?

(Plaintiffs' Exhibit No. 4098 was marked.)

THE WITNESS: Underneath the Americandrugstores.com web site, again the corporate web site, this is one segment where information on vitamins and herbs are presented.

BY MS. FROSTROM:

Q. And on the left-hand side in that column, there appears to be a menu. Do you see that?

A. I do.

Q. And that menu is the same as the menu on the front page of the Health & Wellness section, isn't it?

A. It appears to be the same, yes.

Q. Do you know what the purpose of this vitamins -- the online vitamins guide is?

MR. BOGGS: Objection. Foundation. You may answer.

THE WITNESS: The purpose of this segment is to provide our consumers healthcare information relating to

vitamins and herbs.

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BY MS. FROSTROM:
Q. Were you involved with the creation of this section of the web site?
A. I was not.
Q. Do you know when it was created?
A. I believe this was created several years ago as part of the same discussion of these eight points.
MR. BOGGS: Referring to --
THE WITNESS: Referring to the Document 4097 or the navigational bars on 4098.
BY MS. FROSTROM:
Q. Do you know why Americandrugstores.com decided to provide this information for the customers?
MR. BOGGS: Objection. Foundation.
THE WITNESS: I don't know the specific reason. It's my belief that they built it to be able to provide our consumers healthcare information.
BY MS. FROSTROM:
Q. Do you know where the information on Exhibit 4098 comes from?
MR. BOGGS: Objection. There's lots of information there, and, therefore, your question is compound, and I think you will do better if you are more specific as to what you are asking about. Let -- if she wants you to answer it as is, she will let you know. Otherwise, she can clarify it.

BY MS. FROSTROM:
Q. Give it a shot as is and see where it goes.
A. In the general piece, I don't want to elaborate if I know exactly where it came from. But relative to the drill down segments, specifically to the vitamins and herbs --
Q. Drill down, could you --
A. When I say, "drill down," what I mean is if I press down beta carotene on this menu bar that is shown, that would give me some information on beta carotene.
Q. Okay.
A. I believe -- and I'm not positive, but I believe this information came from a -- our -- our company that produced vitamins and herbs for us, private label, by the name of Liner.
MR. BOGGS: I will reserve a motion to strike on the foundational objection basis.
BY MS. FROSTROM:
Q. So that pertains to just the menu of the drill down items. On top of that, there's two paragraphs for the first one starting, "Vitamins are important nutrients..." Do you know where those two paragraphs came from?
A. I'm sorry; I don't.
Q. And then underneath the menu, there's a section entitled "Who Needs to Supplement?" Do you know

where that information came from?
A. I'm sorry; I do not.
Q. Marking Exhibit 4099, do you recognize Exhibit 4099 as the online minerals guide under the Health & Wellness section of the Americandrugstores.com page?

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A. I do.
(Plaintiffs' Exhibit No. 4099 was marked.)
BY MS. FROSTROM:
Q. Have you seen that page before on the Internet?
A. I have.
Q. Were you involved in the creation of that page?
A. I was not.
Q. What is your involvement with that page, if any?
A. Today?
Q. Today.
A. Today, it is on the web sites which we market.
Might I make a statement?
Q. Certainly.
A. I had an earlier statement asked -- you had asked me where I believe the information came from, and I indicated Liner Vitamins. At the time, also, a company by the name of Nature's Bounty provided information, and this information on the second page of

both statements indicate that the vitamin information was provided by that company. Nature's Resource and Nature's Bounty. I apologize for --
Q. And the information that was provided by Nature's Bounty just pertains to the drill-down menu?
MR. BOGGS: Objection. Foundation. You may answer.
THE WITNESS: I am not certain. It's possible that they could have provided the whole thing or substance to it to be created, but I am not confident that I can speak to exactly how that was developed.
BY MS. FROSTROM:
Q. Do you know what the purpose of this online minerals guide is?
A. As was the information on the previous exhibit and the remaining tabs, again, it was my impression that it was to be able to provide healthcare information to our patients, to consumers.
Q. To patients?
A. To consumers. I will sometimes use the word "patients" or "consumers." I often reference patients when we're talking about pharmacy. Consumers, we're talking about the front end.
Q. It's an industry term?
A. I don't know if it is or isn't. It's just my vernacular.
Q. Marking Exhibit 4100, do you recognize Exhibit 4100 as the online herb guide from the

albertsons.com web page?
A. I do.
(Plaintiffs' Exhibit No. 4100 was marked.)
BY MS. FROSTROM:
Q. Did you have any input in the creation of that page?
A. I did not.
Q. Do you know when the page was created?
A. I believe, as I stated earlier, at the same time as the remainder of -- as each of the -- each of the other nutritional supplements on that guide

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several years ago.
Q. And did this information to the best of your knowledge also come from Nature's Bounty?
MR. BOGGS: Same objections as earlier stated.
THE WITNESS: Again, either Nature's Bounty or Nature's Resource or a combination of both.
BY MS. FROSTROM:
Q. Are you aware of any other possible source for the information on this page?
MR. EATON: Calls for speculation.
MR. BOGGS: Join.
THE WITNESS: I don't know that there was or wasn't. I truthfully don't know exactly what the components were that made up that, but I believe them to be those two resources identified.
BY MS. FROSTROM:
Q. Do you know what the purpose of providing

this information on the web site was, is?
MR. EATON: Same objection.
MR. BOGGS: Objection. Foundation. You may answer.
THE WITNESS: Once again, to provide healthcare information to our consumers.
MS. FROSTROM: Marking Exhibit 4101.
(Plaintiffs' Exhibit No. 4101 was marked.)
BY MS. FROSTROM:
Q. Do you recognize that as the online supplements guide from the Americandrugstores.com?
A. I do.
Q. Was the purpose of that page also to provide health information for your consumers?
MR. BOGGS: Objection. Foundation. You may answer.
THE WITNESS: I believe it was. Is.
BY MS. FROSTROM:
Q. And did you have any input in the creation of that page?
A. I did not.
Q. Do you know when it was created?
A. I believe, as I stated earlier, that this and the other tab associated with it was several years ago, and, again, I'm not confident on the exact date.
Q. Exhibit 4102, do you recognize that as the online health guide from the Health & Wellness section of the Americandrugstores.com?

(Plaintiffs' Exhibit No. 4102 was marked.)
THE WITNESS: 4102, online health guides --
MR. BOGGS: Have you seen this before?
THE WITNESS: I don't recall this one, but it appears to be printed off from our web site.
BY MS. FROSTROM:
Q. So you haven't seen that?
A. I don't recall seeing it, but -- I don't recall not seeing it, but -- so I would assume that it did come off our web site, yes, and it is the online health guides.
Q. Do you know how the decision was made which health conditions to list on this section of the web page?
A. I do not.
Q. You weren't involved with the creation or

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the selection of that?
A. I was not.
Q. Do you know who was?
A. I do not.
Q. And you believe that this would have been created at the same time as the other tabs in this section?
A. Several years ago.
Q. This one does not have the Nature's Bounty credit at the bottom.
A. No, it doesn't. It's a different segment of it dedicated. The others were on vitamins and herbs.

This would have been -- if you --
Do you have a version that's clicked on, that expands out on that?
Q. I have the same copy that you do.
A. Do you have further versions that click down so that you can see the segment?
Q. Not with me.
A. Okay. I believe that the source of that information -- I believe the source of that information might be noted on the click down.
MR. BOGGS: Reserve a motion to strike as not being responsive to the question and no foundation.
BY MS. FROSTROM:
Q. Okay. Can you look at some of the conditions that are listed on that menu? It seems to list anything from acne to cancer to the common cold. Is that correct?
A. The list is only a portion. It appears to be only a portion of the information that's available, in that only this sheet that I have is 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 -- 15 areas that are shown and appears -- because of their alphabetical order, it only goes to dental care. But I see those which you showed me.
Q. From what you know of a menu like this, would it be difficult to add another category such as smoking?
MR. BOGGS: Let me object to the question on

several grounds. He had nothing to do with this document. I'm not even sure that he has seen it. And you're asking him about whether you could add smoking to these categories, and he's not identified thus far that he has had any involvement as to any categories on this page or any other page. So you're inviting him to speculate as well. You may answer.
THE WITNESS: I don't know what categories that are on there.
BY MS. FROSTROM:
Q. Sure.
A. I don't know whether smoking is on there or not. And these tend to be -- that's -- I mean --
Q. Do you know anything about technical web page design?
MR. BOGGS: The question is ambiguous. You may answer it.
THE WITNESS: I don't have any education with regard to that.
BY MS. FROSTROM:
Q. In redesigning the web page, do you have

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any input in what will go into the web page?
A. Yes, I do.
Q. What input is that?
A. Can we stop for one second?
Q. Sure.
A. Just to be more specific about which web page and which site, because I have -- clearly from my

answers, I have input on sav-ondrugs.com. And on the e-commerce site and the health information, as I mentioned earlier, that this web site that we have here will be recreated; that we're looking at Americandrugstores.com will be recreated.
Q. What is your -- what will be -- what is your responsibility in that re-creation process?
A. In the re-creation process, I will have responsibility for bringing together or identifying healthcare content for the new sav-ondrugs.com site.
Q. What do you mean by that?
A. As we redesign the sav-ondrug.com site, we will be -- we are evaluating data to be able to put onto the site for healthcare information.
Q. Healthcare information similar to the exhibits that we just went over?
MR. BOGGS: Objection. Ambiguous.
THE WITNESS: When you say "similar," could you be more clear?
BY MS. FROSTROM:
Q. Sure. What healthcare information are you planning to provide?
A. Currently, right now, we're evaluating whether we licensed healthcare content to place onto our site. We partner with third parties that provide healthcare content and link our consumers to them, or a combination of the above.
Q. That's a decision that still has not been

made?
A. That's correct.
Q. Have there been discussions about providing information about secondhand smoke?
A. I don't recall anything specifically about -- Our discussions are really geared towards trying to identify areas of content. They cross many conditions and disease states as well as other types of content that are related to products. But at the stage of identifying specific conditions right now, we haven't yet. Until we have a site designed, do we know how many and where and how they would be positioned? And nor do we know which content providers would be providing that information, how many it would require to do that.
Q. So is that a "no"? Do you not recall any discussions regarding secondhand smoke?
A. I don't recall.
Q. Is cancer one of the health concerns that you have been discussing?
MR. BOGGS: Let me object. Your question assumes there's been a discussion of any health condition. I don't think that's the thrust of what he just said. I think -- well, the testimony will stand. You may answer.
BY MS. FROSTROM:
Q. Have you discussed specific health

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concerns or health conditions to be included in the new page?

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A. The answer is yes.
Q. Is one of those conditions lung cancer?
A. The answer is that cancer and the different forms of cancer have been discussed, and I would make the assumption that lung cancer would be included with information on cancer, as we would make information available on breast cancer or leukemia or other conditions of that nature -- not that nature, but of carcinoma form.
Q. But you haven't decided who would provide that information yet?
A. Not yet, ma'am.
Q. It could be inhouse?
A. The information that we obtain will most likely be licensed from organizations or medical organizations that have expertise in those areas, where our expertise tends to lie in selling products, in merchandise.
Q. Even in the pharmacy area?
MR. BOGGS: Objection. The question is ambiguous. Could you expand it?
BY MS. FROSTROM:
Q. You indicated that your expertise goes to sales and marketing. Does that hold true for the pharmacy section as well?
A. Let me clarify. The e-commerce site's responsibility -- said another way, the e-commerce site is designed to sell products and market products. When

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it comes down to healthcare information, as in our pharmacies today, our pharmacists are provided information that helps them provide our consumers with information on drug interactions, helps them guide their patients through how to take their medication better. It's not information that Albertson's or Sav-On Drugs or an entity creates it themselves, but which license.
Likewise, we would like to provide that same type of information, similar information, with expanded healthcare information by professionals that can manage and monitor and maintain and keep it updated, where we do not have inhouse the expertise or the skill to do that. When I say that, the context of that information.
Q. Do Albertson's pharmacists have any input on the Health & Wellness section of the web site?
A. Do Albertson's pharmacists have --
Q. -- any input in the creation of the information that goes --
A. -- on the web site itself?
Q. Yes.
A. When you say any information, can you -- they --
Q. In the Health & Wellness section.
A. In the Health & Wellness section, they have not, up to this point, had any. In this section on American Drug Stores -- actually, I don't know if they didn't -- a pharmacy, if people from the pharmacy had

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input or not on this section, on the American Drug Stores site.

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Q. Do you know if the pharmacists are trained to use this information in giving advice?
MR. BOGGS: Objection. Ambiguous.
THE WITNESS: I don't know what the training -- I don't know to what extent the pharmacists have been trained on using this information on the site. I don't know that they have or haven't.
BY MS. FROSTROM:
Q. You don't know whether they have seen the site or not seen the site?
A. I --
MR. EATON: It's a different question.
THE WITNESS: We have over 6,000 pharmacists, and I don't know. I can't speak to them.
BY MS. FROSTROM:
Q. How long have you been with Albertson's, Incorporated?
A. I have been with Albertson's, Incorporated almost one year. We're going on with the merger, but I have been with the American Stores, American Drug Stores, organization for 18 years.
Q. Has your title been the same the entire time you have been with Albertson's?
A. It has not. I'm sorry. I apologize. For this last year with Albertson's? The answer is yes.
Q. What did you do just prior to coming to

Albertson's? What was your title?
A. I worked on the American Stores organization as Director of Business Development.
Q. And in that position, what relationship did you have to the web page, if any?
A. I had none.
Q. How long were you the Director of Business Development?
A. Approximately two years.
Q. What was your position before that?
A. Director of Healthcare Procurement for American Stores and -- for one year, and American Drug Stores for two years. Actually, for three years, Director of Healthcare Procurement for American Stores.
Q. Did you have any responsibilities involving the web site in that position?
A. I did not.
Q. What was your job title before you were the Director of Healthcare Procurement?
A. Manager of Analysis and Space Management for American Drug Stores.
Q. Analysis and space management?
A. Yes.
Q. Did you have any web site responsibilities in that capacity?
A. I did not.
Q. How long did you do that?
A. About two and a half years.

Approximately.
Q. I think we're probably getting back to before there was even a web. In any of your other positions, did you have any other responsibilities having to do with the Internet?
A. I did not.
Q. Do you have a college degree?

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A. I do.
Q. In what?
A. Bachelor of Pharmacy.
Q. Is that a BS?
A. BS, Bachelor of Science, Pharmacy.
Q. And where did you obtain that degree from?
A. Mass. College of Pharmacy.
Q. Have you attended any other schools since that graduation?
A. I have not.
Q. Have you taken any courses in web site computer design?
A. I have not.
Q. Did you have any other training in web site and computer design?
A. I don't.
Q. Does Albertson's or American Drug Stores provide any inhouse training in web site and computer design?
A. They don't.
Q. Do your current job responsibilities

involve any technical aspects of the web site maintenance?
MR. BOGGS: Objection. Ambiguous as to what that means. You may answer.
THE WITNESS: Yeah. Could you clarify that?
BY MS. FROSTROM:
Q. Sure.
A. I'm sorry.
Q. Are your responsibilities limited to the marketing side of the web site?
A. Helping make selection on the products -- well, actually, our group makes selection for the products, the pricing, promotion. The design of the web site is done by our ISNT team, where they have the technical understanding of how that works on their platform and how it ties into our organization. I don't have that skill set.
Q. Your duties go more to content?
MR. BOGGS: Objection. Ambiguous.
THE WITNESS: Our -- our responsibility is marketing the web site and relative to -- I want to say content is a large piece, because there are things on a site on content that we have no -- that we don't -- we aren't involved with, and they are general types of things on how the thing operates, policies and procedures and other elements that we don't play a part in.
I hope I'm answering your question. I'm

trying to be able to be more clear for you, but --
BY MS. FROSTROM:
Q. That's fine. You don't create the graphical design for the final product; is that correct?
A. We do not.
Q. You don't write any of the Java script?
A. No.
Q. You don't do PERL programming?
A. Not at all.
Q. You help decide what's going to go on the page?
MR. BOGGS: Objection. Ambiguous. Overly broad.

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You may answer.
THE WITNESS: We explain what we are trying to be able to accomplish or what we would like to see. The designers and the -- the different groups that put together the page, they understand the database, move products around, how things are set up, how they want things, again, consistently across the Albertson's family kind of control -- in fact do control that.
MS. FROSTROM: We just jumped some numbers. We're on Exhibit 4109.
(Plaintiffs' Exhibit No. 4109 was marked.)
BY MS. FROSTROM:
Q. Do you recognize that as the diabetic information from the Health & Wellness section of the Americandrugstores.com page?
A. I recognize that, yes.

Q. Have you seen that page before?
A. I have.
Q. Was this page, to the best of your knowledge, created at the same time as was the rest of the section?
A. I believe it was.
Q. Do you know why it was that diabetes was singled out to get its own page?
MR. BOGGS: Foundation objection.
THE WITNESS: I don't know the exact answer. It is my guess --
MR. BOGGS: She's not interested in guesses.
THE WITNESS: Okay.
MR. BOGGS: If you are not involved and you have no basis for telling her, you will not be assisting her or anybody else by guessing.
THE WITNESS: No.
BY MS. FROSTROM:
Q. Could you turn to the second page of Exhibit 4109? It appears to be a list of third party links. Is that correct?
A. That's correct.
Q. Do you know how these links were selected?
MR. BOGGS: Objection. Foundation, calls for speculation.
THE WITNESS: I don't know specifically how each one was chosen or why each one was chosen.
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BY MS. FROSTROM:
Q. Were you involved in determining the placement of any of these?
A. I was not.
Q. Do you know if it would be difficult to add another item to a list like this?
MR. BOGGS: Objection. The question is ambiguous as what do you mean by "difficult"? Is that cost? Is that design? A whole bunch of factors such as that. Plus no foundation based on what he has described as his lack of technical responsibilities regarding the design of web sites.
BY MS. FROSTROM:
Q. I imagine you no longer know what the question is. I will rephrase.
If, in redesigning the page, you decided that you wanted to add another link, you identified a

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third party provider and you wanted to add that link, would that be expensive, prohibitive?
MR. BOGGS: Objection. It's ambiguous as to "expensive" or "prohibitive." There's no context for the question. You may try to answer.
THE WITNESS: I don't know what it would cost to add a link.
BY MS. FROSTROM:
Q. You indicated that you are currently considering third party sources to license information from --

A. I am.
Q. Have there been any discussions as to the difficulty involved in linking to those third party sites?
MR. BOGGS: I'm going to -- you may try to answer. I'm going to object. It's ambiguous.
THE WITNESS: Okay. At this stage, the aspects of linking or having it on our site have not yet been determined. The areas that we were having discussions with are trying to find resources that can expand the healthcare content, that has the credentialized, I guess, if you will, information that can be utilized by our consumers.
BY MS. FROSTROM:
Q. You plan at this time to link to third parties for that information?
A. I don't know that we will. That is one of the options that we are looking at, or one of the options is license the content to redesign that into our site.
Q. Okay. Exhibit 4110 is a further list of third party information on the Americandrugstores.com page, is it not?
MR. BOGGS: Objection. No foundation.
(Plaintiffs' Exhibit No. 4110 was marked.)
BY MS. FROSTROM:
Q. It's entitled Albertsons Drug Stores' Favorite Website Links of health related sites."

Correct?
A. That's correct.
Q. We have how many? Four pages?
A. I have five --
Q. Four pages that actually have third party links on them?
A. Okay.
MR. BOGGS: Before he answers, I'm going to object. So far you haven't laid a foundation as to whether he has ever seen it, much less what his knowledge is about this.
BY MS. FROSTROM:
Q. Have you seen this page before?
A. Yes, I have.
Q. Are you familiar with the contents of this page?
A. I am familiar with the page, not each of the institutions on it.
Q. Do you know how these third party links were selected?
A. I don't know.
Q. To the best of your knowledge, this page

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was also created at the same time the rest of the Health & Wellness section?
A. It was. To the best of my knowledge, it is.
Q. The purpose of this page is to provide healthcare information to American Drug Stores,

Albertson's, Sav-On, Osco consumers?
A. The intent of this page was to provide our consumers with links to organizations that provided healthcare content, to be able to help them drill down and learn more about their condition, disease states, organizations that could help them.
In an area where we didn't possess that knowledge or that information on our site, we have used these links to be able to provide our consumers with healthcare information, with sites that we have now used the word, quote, that might be credible or nonprofit or organizations that we may work with in our stores, in our pharmacies, in our patients, to help people.
And where they -- where -- again, it's my opinion where they may be best served in specialty areas of healthcare content or conditions of which people may have requested information or that we may have chosen. Again, that's a guess, on how they were actually chosen.
MR. BOGGS: Reserve a motion to strike as based on speculation.
BY MS. FROSTROM:
Q. Do you have any foundation for that opinion?
MR. BOGGS: Explain to him what you mean by "foundation."
BY MS. FROSTROM:
Q. What do you base your opinion on?
A. A gut's intuition.

Q. Is that all?
A. Yes.
MR. EATON: Join the motion to strike.
BY MS. FROSTROM:
Q. You indicated that all of these pages existed when you came over to the position at Albertson's one year ago. Correct?
A. Last year, I'm not aware that we have added or deleted anything to this -- to this set of pages here on 4110.
Q. Was there any effort made during or after the merger to verify the accuracy of the information that was on the Americandrugstores.com page?
MR. BOGGS: Let me object to the question and ask you to clarify it as to whether you're including in that question all the information that you can potentially drill down to, or are you limiting the question simply to information that you see on the page, for example, 4110?
BY MS. FROSTROM:
Q. Let me just start with, was there any effort made to verify the accuracy of any parts of the page?
MR. BOGGS: Same objection. Lacks foundation.
THE WITNESS: I think it depends on the page. We did make changes to the site, to change the name of the corporation and our links to the name plates. We have

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changed information relative to our store locators

probably to the home page. We have added some information, as I indicated, on Planet U and our net refills.

MR. EATON: Can I get the question back, please.

(The last question was read back.)

MR. EATON: I'm going to move to strike the answer. I think that's to change and not the fact of accuracy.

MR. BOGGS: Join.

BY MS. FROSTROM:

Q. Were you involved in any verification effort during or after the Albertson's merger with respect to the Americandrugstores.com web page?

A. When you say verification effort, of what part?

Q. Of the Health & Wellness section.

A. To be more specific, the parts that reside on our site?

Q. Yes.

A. Or the parts that you link onto?

Q. Not the click-through parts.

A. Okay. Health & Wellness section. Other than the -- again, nothing to do with -- well, the link-ups. They have been -- they predominantly have been the same or similar to what was presented for just the Health & Wellness.

MR. BOGGS: That isn't her question. Her question was to what extent have you been involved? Can

you read the whole question again so he has it in mind, the most recently stated question?

(The last question was read back.)

THE WITNESS: The American Drug Stores web page, that's everything, and I think the last question was down to the Health & Wellness section.

BY MS. FROSTROM:

Q. The Health & Wellness section, the information that exists on that page and not the click-through links?

MR. BOGGS: She's asking whether you're involved. Not what's happened. She wants to know what you are involved in what she has just stated.

THE WITNESS: I would be involved if there were -- or a manager within my group would be involved with changes to the Health & Wellness page.

BY MS. FROSTROM:

Q. But you don't recall any specific involvement within the past year?

A. Not on the Health & Wellness information associated with online vitamin guide, online mineral guide, online herb guide, online supplement guide, online health guide, diabetic information, and health links.

Q. What about as to the corporate site that you linked through the sav-ondrugs.com page; were you involved in any verification process of that information?

A. A little more clearer on -- that is the American Drug Store -- I mean on the American Drug Store site itself overall?

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Q. This one, I believe, is the sav-ondrugs.com?
A. This one that we're right here.
MR. BOGGS: The two of you, when you read this, are going to have trouble because of the word "this." Both of you need to be more specific so we know what we are talking about.
BY MS. FROSTROM:
Q. Way back on Exhibit No. 4096, where we had the entry page of sav-ondrugs.com, the shop online, I believe you identified as the e-commerce side of the site. Is that correct?
A. That's correct.
Q. And then there's the corporate side of the site?
A. That's correct.
Q. When you took your position a year ago, are you aware of any verification review effort as to the corporate side of that site for accuracy?
MR. EATON: Compound, also vague as to the word "verification" in that context.
THE WITNESS: What part of the site?
BY MS. FROSTROM:
Q. The corporate site of the sav-ondrugs.com site, excluding click-through links.

A. On the corporate site, before I came on, as far as its maintenance and management, I don't know what was done before I came on.
Q. Sure.
A. And so relative to -- relative to information being added or deleted or verbs changed or things changed, I don't know what they did prior to my becoming involved with it.
Q. Since you have became involved, what's been done?
A. The information that has been modified or changed has been related to the activities supporting our stores. Once again, they would be our store locator information, our content. It would be information about whether our programs of flu shots or elements of turning in the stores, they would be information to help identify which stores are open for 24 hours or who have photo, one-hour photo, or other elements associated with that. They would be related to some of the general -- it would be importing, I guess, one of the news feeds from the Albertson's corporation.
Q. Who decided to make those changes, if you know?
MR. BOGGS: You're still over here on the corporate site?
BY MS. FROSTROM:
Q. Still over here.
A. On the corporate site, some of those

changes occur because of the very change of the business, and it's our responsibility as our department to reflect -- to reflect those changes.
Q. So is it the responsibility of your department to determine when those changes need to be made?
A. On the corporate site today?
Q. Just stay on that site for now.

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A. The answer is yes.
Q. How do you go about determining that?
MR. BOGGS: The question is overly broad and vague. You may try and answer.
THE WITNESS: I think the -- again, it goes down to the context of what needs -- what might present itself to be changed.
BY MS. FROSTROM:
Q. Do you have any kind of a regular review process? You go in and you look at the page once a month, something like that, to check and see if everything is still up to date?
A. As far as -- what part of the site?
Q. Still on the corporate site.
A. What part of the corporate site?
Q. Anything in the corporate site, excluding click-throughs.
A. Excluding click-throughs. The answer to that is then yes.
Q. Yes, you do review it periodically?

A. The corporate site, yes.
Q. How often?
A. Between -- if we have -- depending upon how frequently we open stores, how frequently -- I mean, that tends to be the things that we change or modify or adjust. So there's not -- I can't give you a specific frequency with which we do that. We're notified of when stores will be changing or coming online, and then that information is then calculated and provided to be uploaded to be changed.
Q. Okay. Now, moving over to the e-commerce side, the shopper online --
A. Yes.
Q. -- is that also within your department's responsibility to make changes to that side?
A. The technical changes to that side are done through the Albertson's IT team.
Q. The technical changes, but who decides when the changes need to be made?
A. It depends upon what changes are taking place.
MR. BOGGS: Can we take a short bio break.
MS. FROSTROM: Okay by me.
(A recess was taken.)
BY MS. FROSTROM:
Q. Let me see if I can finish up with this verification area.
A. Okay.

Q. You took the position that you currently have now a year ago. Sorry I forgot your title. What was it again?
A. Director of Electronic Marketing.
Q. Director of Electronic Marketing, which you took over a year ago. Were you already familiar with the Americandrugstores.com page?
A. The web site?
Q. Yes.
A. No.
Q. Were you familiar with sav-ondrugs.com's web site?
A. It was the same.

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MR. EATON: What? I missed the answer. I apologize.

(The last answer was read back.)

BY MS. FROSTROM:

Q. You weren't familiar with that?

A. I'm sorry?

Q. You weren't familiar with that, correct?

A. With the contents?

Q. Yes.

A. I was not.

Q. Were you familiar with the Albertsons.com web site?

A. I was not.

Q. Did you do anything to familiarize yourself with those pages?

A. A year ago?

Q. Yes, a year ago.

A. With Albertson's -- I'm sorry. Nothing with albertsons.com page. With the Americandrugstore.com page, I did go through the site.

Q. How did you go through the site? What did you do?

A. I clicked through it, looked at the information, tried to use that to understand how we eventually would like to go to a new site, the sav-on.com e-commerce site.

Q. Did you look at it from a perspective of just how to change it, or did you look at it to look at the information that was there as a consumer would?

MR. BOGGS: Objection. Ambiguous.

THE WITNESS: I don't understand.

BY MS. FROSTROM:

Q. When you clicked through the site a year ago, were you looking at the information from a consumer perspective?

A. I don't recall.

Q. Just looking at the information, reading the information, trying to determine what was there?

A. I did.

Q. And did you question any of the information that was there as to accuracy when you were looking at it?

A. Which form of information?

Q. The information that was present on the Albertson's drug stores, Sav-On, Osco page, which is all the same, when you were looking at that information, excluding the click-throughs, what was your purpose in doing that a year ago?

A. One was to become familiar with the site, and two was to understand what foundation we had to build a new site.

Q. Did you have any purpose of making sure that the information on the web site was true and accurate?

A. Did I have -- what particular information? The answer to that is yes, in general.

Q. In general. How did you determine that the information was true and accurate?

A. Information that we managed, that impacts our stores, and content changes that evolve were -- were uploaded, I guess. People at the time had databases

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they would download that would update our store information, our hours, and so forth. And there was a manager at the time that their responsibility was to insure that that information remained correct and accurate.

Q. Okay. Let's -- for example, Exhibit No. 4098, when you were going through the site a year ago, did you look at this page?

A. I don't recall looking specifically a year ago, but I would assume that I did.

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Q. But you don't recall if you did?

A. I don't recall, but I would assume that I did.

MR. BOGGS: She doesn't want your assumptions.

THE WITNESS: I'm sorry.

MR. BOGGS: She's asking do you recall.

BY MS. FROSTROM:

Q. Do you recall looking at any of these pages within the Health & Wellness section?

A. Over a year ago, I don't recall exactly what I did and the steps that I followed. They were items on the site. I assume that I had gone through the site.

Q. Do you recall if you analyzed the information present in Exhibit 4098 for accuracy?

A. I do not recall.

Q. Do you recall if you analyzed the information in any of the exhibits that we have looked at so far today?

A. I do not recall.

Q. You indicated that you have a degree in pharmacy. Is that correct?

A. That's correct.

Q. Are you a licensed pharmacist?

A. I don't practice.

Q. Are you a licensed pharmacist in California?

A. I am not.

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Q. Have you ever been a licensed pharmacist?

A. Yes, I have.

Q. What year did you get your degree?

A. In 1983. '82. I'm sorry. Massachusetts.

Q. 1982. And where did you obtain your first license?

A. New Hampshire.

Q. What year was that?

A. '82.

Q. Are you licensed in any other state?

A. Massachusetts.

Q. When did you get that license?

A. '82. I believe -- I believe both are '82. I graduated -- I believe both are in '82. There's a -- '82 or '83 for Massachusetts, because it was when the State Board did their test. One was in November, New Hampshire. January or February for Massachusetts.

Q. Did you get your license in any other state?

A. I did not.

Q. Did you practice as a pharmacist in one of those states, in New Hampshire or Massachusetts?

A. Massachusetts.

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Q. How long did you practice as a pharmacist in Massachusetts?
A. Approximately two and a half years.
Q. Without taxing the math, how long of a period of time was it between when you were practicing

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as a pharmacist and when you came to American Drug Stores?
A. I started -- I worked as a pharmacist at Brigham Young Hospital where I was also a student, and then became a pharmacist, and then I became employed with OscoDrug, which was part of American Drug Stores.
Q. As a pharmacist?
A. As a pharmacist in Boston.
Q. How long did you practice as a pharmacist with Osco?
A. About a little over a year and a half.
Q. What position did you go to then?
A. Assistant manager of the store.
Q. And that would be a drugstore?
A. OscoDrug Store.
Q. Sorry. I don't think we have OscoDrug Store here; so I'm not familiar with them.
A. I would liken them to Sav-On Drugs with a different name plate.
Q. As an assistant manager, did you have any pharmaceutical duties?
A. Not specifically, although I would go behind the counter to assist on occasion.
Q. The job that you have now, is that -- that's more marketing-related than pharmacy-related, correct?
A. It is.
Q. When did you switch over from pharmacy to

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marketing?
A. After my first year and a half, I was a pharmacist, and then I went into the operations, front-end operations part of the business.
Q. As an assistant manager, you had started to do the marketing?
A. No. That was store operations.
Q. Store operations?
A. Yes.
Q. What was your first marketing position with American Drug?
A. First corporate -- to be very careful, I understand what marketing -- you may have different terms. The first time I came into the office to become a buyer, healthcare buyer, was back in 1990.
Q. We have talked about your department, which is responsible for the e-commerce, correct?
A. That's correct.
Q. And the e-commerce has to do with -- What's the purpose of your department?
MR. EATON: Asked and answered.
MR. BOGGS: You may answer. I don't recall if he called it a department. If he did, I stand corrected, but counsel is calling it a department. If it's not that, pick the right word to describe it.
THE WITNESS: Okay. The electronic marketing team, whose responsibility is to -- has been the responsibility to identify the products, the selection,

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pricing, and how to market the sav-ondrugs.com web site. And the information that we add to that site enhances its value to our customers.
BY MS. FROSTROM:
Q. Is there -- is there some kind of a team mission statement? You have described the duties for me. What is the goals of your team?
MR. BOGGS: Objection. Ambiguous.
THE WITNESS: The goals of the team. Well, to be successful.
BY MS. FROSTROM:
Q. Successful at what?
A. Successful at providing consumers the opportunity to obtain -- to obtain information and products on the web site to complement their in-store experiences.
Q. Is the purpose of drawing those consumers to sell product?
MR. BOGGS: Could you read that back?
(The last answer was read back.)
THE WITNESS: Can you explain that for me; so I make sure I understand?
BY MS. FROSTROM:
Q. You indicated that you're marketing this e-commerce site, correct?
A. We're creating an e-commerce site to market, yes.
Q. And you're marketing that to potential

consumers?
A. Yes.
Q. Why do you want those consumers to come on to your site?
A. We would like those consumers to come on to our site to be able to enhance the overall value proposition of our Sav-On Drugs stores, Albertson's stores.
Q. I'm not sure what you mean by that. Enhance the value proposition?
A. I've --
Q. I've never been very good at marketing. You will have to forgive me.
A. Said another way, if you're a consumer and you want to fill your prescription, you have -- today, you have choices. You can have your doctor call the prescription in. You can pick it up. You could call the prescription in and talk to a pharmacist or a technician to be able to get your prescription refilled. You could call in and you could speak to an application that would be a machine, IBRF application, that could do that for you by punching the numbers in for you.
The web site is designed to enhance, to be able to communicate with our organization, and our organization to be able to post information so that the consumer could be able to get that if they so chose to use that environment.
So, for example, if you would like to

refill your prescription, and rather than using the other alternatives, if you would like to be able to type in the prescription number and the store that you would like to have it picked up and understand when it was

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ready, by using your computer, we're looking to be able to provide that as an additional service for you.

Q. Do you know if other drug stores provide that service, or is it unique to American Drug, Osco, Sav-On?

A. Other drug stores do provide that service. Some drug stores do provide that service.

Q. And do you provide other e-commerce services other than the refill prescription?

A. We do.

Q. You sell products through your web page, don't you?

A. We do offer web products, yes.

Q. And is part of the job of your team to draw more customers to buy those products?

A. It is.

Q. And in doing that, do you have any -- strike that.

Let's go back to more paper.

(Plaintiffs' Exhibit No. 4111 was marked.)

BY MS. FROSTROM:

Q. Exhibit 4111 appears to be a section of the sav-ondrugs.com page. Do you recognize that?

MR. EATON: Could I get the Bates number,

Counsel.

MR. BOGGS: C-IR-SAV, as in Victor, 000069.

THE WITNESS: Where did you just read?

Okay. The page that you're looking at that I have before me, 4111, is actually a page that comes off from adam.com's server. It's noted as disease and conditions followed by adam.com.

BY MS. FROSTROM:

Q. Have you seen that page before?

MR. BOGGS: This specific page is what she's asking about.

BY MS. FROSTROM:

Q. On the Internet, have you seen --

A. I don't recall seeing this exact page, but reading from the way that it is set up, it looks as if it's a page that is a pass-through link to adam.com from our Sav-On Drugs, assuming that that is correct. Yes.

Q. Are you familiar with adam.com?

A. I am.

Q. What is adam.com?

A. Adam.com is an independent organization, and this would be the best way I can paraphrase it, if you will. So the accuracy, you will have to check with adam.com, but it's a third party that we have licensed healthcare content from.

Q. How do you license healthcare content from someone?

MR. EATON: Lacks foundation, calls for

speculation.

BY MS. FROSTROM:

Q. If you know.

MR. BOGGS: Help him understand. If I had one of our licensing lawyers, they could really give a good answer to that, but I don't think that's really what you need.

MS. FROSTROM: I want to know what he means when he says he licenses healthcare content.

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MR. BOGGS: That's a better question. Explain what you mean when you say you license healthcare content.

THE WITNESS: Said another way, Albertson's does not own the content by adam.com.

Adam.com hosted healthcare information, of which we paid a fee to have the right to be hosted on our healthcare site -- on our web site, on sav-ondrug.com e-commerce page or section, and that information, in the maintenance, in the proofing, in the integrity, and the whole aspects associated with it; then in turn for that payment, it is then adam.com's responsibility to have it approved by medical boards and keep and maintain and manage it.

BY MS. FROSTROM:

Q. So Albertson's pays a fee to adam.com. In exchange for that, you expect them to provide and verify the information that's on that site? Is that correct?

A. That's correct.

Q. Is there anyone at Albertson's that has the responsibility of also making sure that the information is correct?

A. No.

Q. Do you know why not?

MR. BOGGS: Objection.

MR. EATON: Argumentative.

MR. BOGGS: Join. Calls for a conclusion.

BY MS. FROSTROM:

Q. Were you involved in the selection of adam.com?

A. I was.

Q. Have you -- do you know when it was decided to keep this information?

MR. BOGGS: It's ambiguous. What does that mean?

BY MS. FROSTROM:

Q. When was this particular link placed on the Americandrugstores.com page?

A. This information went onto -- not the Americandrugstore.com page, but it went onto the sav-ondrugs.com e-commerce page, at site The Links, and were made in October of 1999 with part of the building of the new web site.

Q. So this is part of the new site?

A. This is correct.

Q. Were you there in October of 1999?

A. I was.

Q. But you weren't involved in the addition

of this page to the web site?

A. Said another way, I have been involved with this for over a year. The evolution of the E -- this is the American Drug Stores site you talked about before. And its design and development, I was not. The e-commerce --

MR. BOGGS: Stop. "This," you were referring to with your hands.

THE WITNESS: Is the Americandrugstores.com site.

MR. BOGGS: Okay.

THE WITNESS: Because -- because your question said American Drug Stores. That's why I was explaining it. The Sav-On Drug, the new development of the site, the e-commerce site, eventually the site for -- that

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will replace the American Drug Store site, I have been involved with.
BY MS. FROSTROM:
Q. Okay. Why was adam.com chosen?
A. Adam.com -- why was adam.com chosen? We reviewed several different players for healthcare content. At the time, the healthcare content sites that had some of the best healthcare content out there that could reach our -- reach consumers, written in a level of education, grade level of education, that could be easily discerned, that had historical accuracy by providing information to medical schools and content, and the illustrations and images along with that content, adam.com was considered the best -- not the

best -- but it was considered one of the premier types of content that we could add to our site to be able to bring healthcare information to our customers.
Q. What criteria did you use in deciding who had the best healthcare content?
MR. EATON: Object. Misstates his prior testimony.
MR. BOGGS: Join.
THE WITNESS: One more time.
BY MS. FROSTROM:
Q. What criterion did you use to decide who had the best healthcare content?
MR. BOGGS: The problem is you're using the word "best," and I think he -- if you listen to his earlier answer, he never said these people were the best. I think he qualified it that they were one of the best or some such words. And he gave you a lot of criterion. You may want to have that portion read back to you and ask about whether there's any more or --
MS. FROSTROM: Actually, I pulled this out of the list that he gave me.
MR. BOGGS: Okay.
MS. FROSTROM: He said that one of the things he liked about them was because they had the best healthcare content. I wrote it down as he said it.
MR. EATON: He qualified it by saying one of the best.
MR. BOGGS: Just answer the question. I would

just encourage her to have her read the last answer.
THE WITNESS: Could you read my last answer?
(The answer on Page 73, Line 19 was read back.)
BY MS. FROSTROM:
Q. Okay. I'm taking you back to the beginning of the selection process and asking, how did you initially decide who had the best healthcare content?
MR. EATON: Same objection.
THE WITNESS: I don't know that we decided who had the best. What we looked for was a content provider that could work with us to be able to help integrate their content into our site and that could take the responsibility to be able to manage the level of it. To clarify, if I misspoke, is that there are many sources of healthcare content that are out there today, and I'm not confident that anybody knows which one is the best. But what we try to do is find a partner that could provide us healthcare content that could be utilized by

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our consumers or patients to be able to place on our site, to be able to help provide that content as a service to our patients or customers.

Our decision on who we chose, I don't recall all the details that we looked at. But at the time, when -- in the early 1999, as e-commerce was evolving and healthcare content was evolving on the Internet, there were a lot of different players and a lot of different experience levels of information. I

think we had a large factor of making a selection of Adam based upon their years of experience by providing the same kind of healthcare information to educational organizations and in written format books, and experience that they had across many different mediums versus some of the other companies that might have provided healthcare content at the time that we didn't yet have that experience or that were not able to integrate into our platform.

But specifically off the top of my head, what made us choose Adam over somebody else, I'm not clear that I recall exactly what that was. There was lots of things that go into trying to understand whether something can work within our site in the timing that we try to launch our site.

BY MS. FROSTROM:

Q. Was it important that the information on adam.com be reliable?

A. That's correct.

Q. Was it important that the information be accurate?

A. That's correct.

Q. Was it important that it be truthful?

A. That's correct.

Q. Were those criterion that were considered during the selection process?

A. That's correct.

(Plaintiffs' Exhibit No. 4112 was marked.)

BY MS. FROSTROM:

Q. Exhibit 4112 is also a section of the adam.com link-through on sav-ondrugs.com. Do you recognize it?

A. Not specifically, but I -- not specifically, but it does appear to be our content. That does appear to be adam.com's content hosted that we have linked through, yes.

Q. Have you reviewed content on the adam.com section of the sav-on.com page?

A. Not specifically, no.

Q. Have you reviewed this particular content?

A. I don't recall.

Q. Could you turn the page, please.

Under the heading Causes, Incidence, and risk factors, in the center of that paragraph, is a sentence that reads, "Second-hand smoke has also been shown to increase the risk. Government surveys show that as many as 3,000 people each year develop lung cancer from second-hand smoke." Have you read that section before?

A. I have not.

Q. Are you familiar with that information?

A. I am not.

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MR. EATON: Vague.
BY MS. FROSTROM:
Q. Do you know if any attempt has been taken to verify that information by your company?

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A. I don't know.
Q. In linking through to this adam.com web site and the information that it has, are you intending that consumers read the information and rely on it?
A. One more time, please.
Q. By providing these links to adam.com, are you intending that your consumers that come to your e-commerce web site will read the information and rely on it?
MR. BOGGS: Well, I object to the question as to its vagueness. You may answer.
THE WITNESS: One more time. Sorry.
BY MS. FROSTROM:
Q. Do you intend that your consumers will link to this adam.com information?
MR. BOGGS: Well, let me object. I don't think you mean it as broadly as you say it. Are you asking him do they intend that all of their consumers link to this specific information? Because that's how the question is phrased.
BY MS. FROSTROM:
Q. Do you intend that to occur? You put this out there. Are you intending that people are going to read it?
A. This article right here?
Q. Through your page, yes.
A. This specific article?
Q. Sure.

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A. It is our intent to provide healthcare information. That is one form of providing healthcare information. People will choose whether they would like to take advantage of reading information or not. I don't have necessarily an intent that somebody reads or that somebody does something on a web site. It's -- Our objective is to provide healthcare information, a source of healthcare information --
Q. Who are you providing that information --
MR. BOGGS: Wait a minute. I think you are interrupting him.
BY MS. FROSTROM:
Q. I'm sorry. If you would like to finish.
A. -- to patients or consumers that access our web site.
Q. So do you intend that those patients and consumers will read this information that you are providing?
A. Do I intend them to?
Q. Yes.
A. I offer it as a service. Said another way, we offer many products in our stores. I don't intend them to buy every single one of them. I intend them -- I don't intend anything, but if they so choose to find that there is information that they're seeking, that there's a source that is available to them.
Q. And that source is only available to them if they read it, correct?

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A. That source --
MR. BOGGS: Object. You don't literally mean that, I don't think. The question is ambiguous.
THE WITNESS: To make another point, people obtain information in many ways. They may actually go out in the web and look at it. They may read it in a book. They may have a caregiver or a loved one that may obtain information. It may be somebody all together different. It may bring information to different people. Our intent is to disseminate healthcare information so that those that are looking for healthcare information, it's made a little bit easier to be able to get to.
BY MS. FROSTROM:
Q. Do you think that it would really be a useful service to provide this information if no one ever read it?
MR. BOGGS: Objection. Calls for speculation, ambiguous, calls for a conclusion or an assumption.
MR. EATON: Also argumentative.
BY MS. FROSTROM:
Q. I think you can still answer that.
A. I have no opinion.
Q. Part of your job is to market this page -- correct? -- to make it marketable?
A. Which page?
Q. The e-commerce page.
A. This is not the -- 4112 is not the

e-commerce page.
Q. Isn't that accessed through the e-commerce page?
A. The page that we're looking at now is a hyper link to adam.com. It's a medical encyclopedia.
And your question once more? I'm sorry.
Q. And the link to adam.com is provided by your e-commerce page. Yes?
A. By our sav-ondrugs.com e-commerce page, the link is made in part of the segment, yes.
Q. As a service to your consumers?
A. Actually, they don't need to be consumers, because they don't need to buy something or register on our site. To anyone that accesses the sav-ondrugs.com, yes.
Q. I think you indicated also that you have a report that tracks the hits and the traffic on the page?
A. Not on this page.
Q. Not on that page?
A. I do not.
Q. What does the hit traffic report that we haven't yet found a name for, what does that track?
A. That tracks activity that occurs on our sav-ondrugs.com site. 4112 is on an adam.com site, and I don't have software that tracks what hits on the adam.com site.
Q. But your software would track if people were going to the link on to your sav-ondrugs.com page

that goes to adam.com, correct?
A. I don't know. I don't know that answer, because I don't know how that link occurs. I don't know.
Q. Would you continue to provide information

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if people weren't using it?
MR. BOGGS: Objection. Ambiguous, incomplete hypothetical.
MR. EATON: Join.
MR. BOGGS: You may answer.
THE WITNESS: We provide to our customers and patients lots of health -- lots of information. I say lots. We provide information. Some people utilize it. Some people don't choose to utilize it. There's no monetary value that we gain from providing the healthcare information.
BY MS. FROSTROM:
Q. Why is it provided then?
MR. BOGGS: Objection. Asked and answered earlier in the depo. several times.
MR. EATON: Several times.
MR. BOGGS: You may answer again, why you provide access to information.
THE WITNESS: Once again, just to provide our patients or consumers healthcare information.
BY MS. FROSTROM:
Q. And to increase traffic to your web site?
A. This information doesn't influence or

impact the e-commerce segment of the web site. It's actually separated. There's not links of product from this site to our products in our web site. It's to be able to -- maybe if I could use an analogy, please.
If you were to go to our pharmacy counter and you were to get a health awareness brochure about a condition in our store, I would liken it to providing healthcare content to our customers that would come into the store, maybe not buy anything or buy a prescription, but just want -- it was -- if they were looking for healthcare information, we would have a resource available to them without having any impact on whether you bought or sold or -- bought or sold -- a customer bought or if we sold anything to them. There's no link designed to it. If you can see the way it's designed on the pages, it's a separate entity all together.
MR. BOGGS: So the record is clear, the entity you're referring to is what?
THE WITNESS: The positioning of the healthcare information in this medical encyclopedia is separate from the products where people purchase.
BY MS. FROSTROM:
Q. Okay. Now, I will clear all this up, because I will switch over to the Albertson's side.
MR. BOGGS: You're going to clear it all up, you said -- oh, clear this material.
MS. FROSTROM: All this paraphernalia of paper that's in the middle of the table.

(Plaintiffs' Exhibit No. 4113 was marked.)
BY MS. FROSTROM:
Q. I have marked Exhibit 4113. The URL at the top right-hand corner reads www.albertsons.com. The Bates number is C-IR-A-000001.
MR. EATON: Thank you.
BY MS. FROSTROM:
Q. Do you recognize that page?
A. I have seen the page.
Q. You have seen the page on the web?

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A. Mm-hmm, or one similar to that.
Q. Were you involved in the creation of that particular page?
A. I was not.
Q. What is that page?
A. That page is -- involves a consumer or patient -- or I mean a consumer or anybody on the web to visit albertsons.com. I believe that's the first page that you see when you enter the albertsons.com URL.
Q. This also appears to have two subcategories. One is the corporate site, and one is the shop online, which is the e-commerce site?
A. That's correct.
Q. Are you familiar with the corporate site on the Albertson's page?
A. Vaguely, only what I have read as an employee.
Q. Are you familiar with the e-commerce site

of the Albertson's site?
A. Only what I have done to be able to look at the site as a -- just to look at it but not involved in its day-to-day management or design.
Q. Is this site technically maintained by intelli.com?
A. No.
Q. Is it maintained inhouse?
A. It is.
Q. By -- what's the name of that team again? ISNT?
A. Yes.
Q. Is there a team responsible for the marketing side of this site?
A. There -- I believe there is.
Q. Do you know the name of that team?
A. I don't know the name of the individual that does that. This site, unlike sav-ondrugs.com, this site is only in Seattle and in Texas. And when you go into that site, the only way that you can go in is by putting a zip code in. Sav-ondrugs.com is national as of March. Albertsons.com is only in the Seattle marketplace and the Texas market.
MR. BOGGS: She's got a good question. I can tell. I can see the look on her face.
MS. FROSTROM: Let me see. I had a really good law school debate on this issue. Isn't the Internet nationwide?

MR. BOGGS: That's not what I thought you were going to say.
THE WITNESS: No.
MR. BOGGS: Hold on. We're being facetious.
BY MS. FROSTROM:
Q. How do you just have a web site in Seattle and Texas?
A. When you click onto Shop Online, it will ask you for a zip code, and the zip code will then allow you in or not. And if you use a zip code of California, right where we are right now in San Diego, you would not be able to enter that site.
BY MS. FROSTROM:
Q. And if I could enter that site, what would I be able to do?

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A. You would be able to, depending upon -- if you lived in the Seattle marketplace, in certain areas within Seattle, you could be able to order your groceries and perishables online.
Q. For home delivery?
A. Either to be picked up at the store, or for home delivery in Seattle and in Texas, the groceries for delivery to the Dallas/Fort Worth market, and I believe that's expanded to the state of Texas.
Q. Are there plans to expand that to other states?
A. I don't know what the plans are right now. Those are two tests.

Q. Do you know if it's possible to buy cigarettes through the Seattle-Texas system?
A. I don't believe it is, but I don't know.
Q. Did you know the team that was responsible for the marketing?
A. I don't know the name of the individual. It's a --
Q. It's just an individual; it's not a team?
A. The albertsons.com store that's in Seattle that provides that has a store manager and a team. It's a little different than what we do. I'm not familiar with the organizational structure that goes out to advertise or market that team.
Q. Okay.
A. I'm not involved in that day-to-day and what -- and I've never been there. Just what I heard.
Q. In the training program for Albertson's, were you required to look at the site?
A. I'm sorry. What training program are you referring to?
Q. Were you trained? Does Albertson's have a training program that requires employees to look at the web site, that you are aware of?
MR. BOGGS: Objection.
THE WITNESS: I'm not aware.
BY MS. FROSTROM:
Q. I think what I am getting at, I think you said you only looked at the site as an employee. How

does an employee look at the site?
A. I looked at it to understand about the organization of Albertson's.
Q. So it wasn't a required element of your job?
A. Not in mine.
Q. Marking Exhibit 4114, Bates number at the bottom right is C-IR-A-16.
(Plaintiffs' Exhibit No. 4114 was marked.)
BY MS. FROSTROM:
Q. Do you recognize this page?
A. I don't.
Q. Could you look through to see if you recognize any part of it?
A. I'm sorry. I don't.
Q. You have never seen that before?
A. I don't -- I could have. I just don't recall it. It's been a long time since I have looked at it. It's been about a year that I can recall.
Q. Marking Exhibit 4115, beginning Bates Nos.

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C-IR-A-29, do you recognize any of that section?
A. I'm sorry. I don't recall these pages.
(Plaintiffs' Exhibit No. 4115 was marked.)
BY MS. FROSTROM:
Q. You don't remember reading any of these?
A. I don't. Even the site has changed slightly a little different since I last saw it.
Q. Okay. So do you have any input in what

goes on the --
A. Not at all.
Q. -- albertsons.com page?
A. No.
Q. You do have input as to what goes on the sav-ondrugs.com page, correct?
A. I do.
Q. If you wanted to put information concerning secondhand smoke on the sav-ondrugs.com web page, do you have the authority to do that?
MR. BOGGS: Objection. It's ambiguous as asked, and it assumes some facts not in evidence. You may answer.
THE WITNESS: One more time.
BY MS. FROSTROM:
Q. If you wanted to put information regarding secondhand smoke onto the sav-ondrugs.com web page, could you do that?
MR. BOGGS: Could you clarify, when you say "on the web page," as to what you mean by that phrase so he can answer that?
BY MS. FROSTROM:
Q. If you wanted to add information for your consumers and patients about secondhand smoke, could you do that?
A. Today, there is information on the site, through links, on smoking and secondhand smoke for our consumers.

Q. Are you referring to the adam.com section that I just showed you?
A. Well, I would expand beyond that to the American Cancer Society, the Lung -- May I re-reference the material?
Q. Yes. Make sure you go by exhibit number. We have got a lot in there.
A. I will. I apologize.
On Exhibit 4110, organizations that do provide information on secondhand smoke are the American -- I'm assuming -- are the American Cancer Society, the American Heart Association --
MR. BOGGS: If you're guessing, you may --
THE WITNESS: American Lung Association. I'm sorry.
MR. BOGGS: And even this one. I don't know. The one above it. Liver?
THE WITNESS: Possibly the American Liver Foundation. But there are healthcare sites today that have -- as a -- the Mayo Clinic. Medscape, Health Answers.
MR. BOGGS: I object to your question that it was assuming facts not in evidence, that they don't -- all of these are links, I think, is what he is telling you.
THE WITNESS: They -- they do provide healthcare

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information, and some of these sites, in fact, expand upon or complement what healthcare content we provide today with adam.com.

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BY MS. FROSTROM:
Q. Could you show me on Exhibit 4110 where the word secondhand smoke occurs?
MR. BOGGS: That's why I objected to your question as to when you said, "web page," whether you literally meant the face page or the hyper-linked material you can get to from the page. So, again, if you could clarify that question for him so we know what you are referring to.
BY MS. FROSTROM:
Q. Right now, I would like to know where on that page it says secondhand smoke.
MR. BOGGS: Object. He never stated that it did. You may answer.
THE WITNESS: Well, we have presented in this page, which is 4110, our organizations that provide content relative to various healthcare issues. By choosing different organizations, they provide content that may be of a general nature, like adam.com, such as Health Answers, or they may provide more specific information that helps a patient understand more details or more substance or studies and so forth associated with that, or communities or groups, to be able to speak to relative to that. That's the intent of this page.
And it's the intent to be able to help consumers and patients access a broad group of categories or conditions for healthcare content that changes day to day, and then which organizations that

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make it their main thrust, to be able to help and educate and have people cope and survive with, can find.
So the purpose that this was built for, in my opinion, and what we have attempted to do through our site is to be able to continue to help provide resources so the people can educate themselves and seek out professionals that can guide them through those decisions.
BY MS. FROSTROM:
Q. And if you wanted to add information on that, on 4110, or on another page, not including click-throughs, specifically referring to secondhand smoke, could you do that?
A. I don't know.
Q. What would you need to know?
A. If I have to have --
One more time, please.
Q. If you determined that -- if you found an organization -- if you wanted to add specific information to your web page about secondhand smoke, could you do that?
A. I have done it. I believe if you go and look at the American Lung Association or the American Heart Association or Health Answers -- well, at least specifically those two organizations -- or the American Cancer Society, I am confident that you will find information served up and in detail better than what I could present myself.

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Q. And part of your job is choosing those

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links?
MR. BOGGS: Hold it. Hold it. Hold it.
THE WITNESS: Read the question.
(The last question was read back.)
MR. BOGGS: She's asking what your job is. So focus on that.
THE WITNESS: These links were decided before. As we move forward, as we look at evolving the healthcare content of our site, my job will be to ascertain whether they should be expanded or modified or changed.
BY MS. FROSTROM:
Q. And if you determined that they needed to be expanded, you can do that, correct?
A. It depends upon many things. It depends upon the organization granting permission. It depends upon the organization cooperating in saying that "Yes, we allow you to be able to do that." It also depends upon the organization's --
MR. BOGGS: Respectability.
THE WITNESS: I wanted to say clinical -- or the answer to that is that it would depend upon the organization.
MS. FROSTROM: Move to strike counsel's testimony.
MR. BOGGS: Granted.
MS. FROSTROM: That's all I have.

MR. BOGGS: I have no questions.
MR. EATON: I have no questions.
MR. BOGGS: Let's get you a cab and get you to the airport.
THE REPORTER: Same stipulation?
MR. HULBURT: Same stip.
MR. EATON: Same stipulation.
MR. BOGGS: Whatever stipulation I did, but counsel at Mr. Keith --
MR. EATON: Aldridge.
MR. BOGGS: -- Aldridge's deposition can be modified and adjusted for this deposition.
(Whereupon, the deposition was adjourned at 2:20 p.m.)
* * * * *

I hereby declare under penalty of perjury that the foregoing is my deposition under oath; that these are the questions asked of me and my answers thereto; that I have read my deposition and have made the necessary corrections, additions, or changes to my answers that I deem necessary.

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In witness thereof, I hereby subscribe my name this day of_____,_____.

_____
JOHN G. ROEHM, JR.

STATE OF CALIFORNIA)
:SS
COUNTY OF SAN DIEGO)

I, Cynthia Depweg, CSR NO. 3280, hereby certify that I reported in shorthand the above proceedings on Monday, June 12, 2000, at 401 B Street, Suite 1700, in the City of San Diego, County of San Diego, State of California; and I do further certify that the above and foregoing pages, numbered from 6 through 94, inclusive, contain a true and correct transcript of all of said proceedings.

It was stipulated that the original deposition be delivered to Mr. Boggs for the purpose of having the witness read, correct, and sign the deposition under the penalty of perjury; said original thereafter to be maintained by Mr. Boggs until the time of trial.

Dated: June 29, 2000.

_____
CYNTHIA DEPWEG
CSR NO. 3280

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